

4/4/73

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

In the Matter of)
)
CONSOLIDATED EDISON COMPANY OF) Docket No. 50-247
NEW YORK, INC.)
(Indian Point Unit No. 2))

APPLICANT'S RESPONSE TO
REQUEST FOR ADMISSIONS

Pursuant to 10 C.F.R. § 2.742 (1972), ^{1/} Consoli-
dated Edison Company of New York, Inc. ("Applicant") hereby
files its answers and objections in response to "Request
to Applicant and Staff for Admissions" served by Citizens
Committee for Protection of the Environment ("CCPE") on
March 29, 1973.

General Objection

Applicant objects to the Request for Admissions
in its entirety, on the ground that it is improperly
addressed jointly to two parties in this proceeding.
Except in the circumstance where two or more parties are
united in interest and are pleading jointly, proper

^{1/} Amended in one respect not material here, 37 Fed. Reg.
15134 (1972).

procedure requires that a separate request for admissions be addressed to each party. As will appear, this is more than an academic point. Applicant is being asked to concede matters that are peculiarly within the knowledge of the Regulatory Staff and that are relevant, if at all, to the Staff's case, not Applicant's.

A. Response to Request for Admissions of Genuineness of Documents.

General Objection and
Reservation of Rights

Section 2.742(a) authorizes requests for admission of the genuineness "of any relevant document". With the sole exception of the Staff's "Technical Report: Densification of Light Water Reactor Fuels", Applicant denies the relevance of the documents referred to in CCPE's Request for Admissions, and therefore objects to all remaining requests. Applicant expressly reserves the right to object, on grounds of irrelevance and immateriality, to the admission of any such document in evidence in this proceeding. Applicant further expressly reserves the right to object to the competence of any of said documents as evidence in this proceeding.

Response to Specific Requests

Subject to the foregoing objections and reservation of rights, Applicant makes the following specific responses:

1. Applicant admits the genuineness and authenticity of the documents identified by CCPE from the record in the Commission's Docket No. RM 50-1.

2. Applicant is unable to admit or deny that the documents identified by CCPE as "examined by the Staff in the fuel densification analysis" were so examined. Applicant admits the genuineness and authenticity of each document so identified.

3. Applicant admits the genuineness and authenticity of the ACRS letter identified by CCPE.

B. Response to Request for Admission of Facts.

General Objection and
Reservation of Rights

Section 2.742(a) authorizes requests for admission of the truth of "any specified relevant matter of fact." Applicant denies that the matters listed by CCPE in its Request for Admissions are relevant, and therefore objects to each request. Applicant expressly reserves the right to object, on grounds of irrelevance and

immateriality, to the admission of any such matter in evidence in this proceeding. Applicant further denies that the matters set forth by CCPE are matters of fact, and Applicant objects to each request on that ground as well. The matters set forth by CCPE are vague, general, argumentative, and conclusionary. They are in plain violation of the requirement that a request for admission be directed to a "specified . . . matter of fact."^{2/} Since CCPE has failed to isolate any specific fact as to which an admission might properly be required, all of its requests for the admission of facts should be denied.

Response to Specific Requests

Subject to the foregoing objections and reservation of rights, Applicant responds to the numbered requests as follows:

1. Applicant is unable to admit or deny this vague and conclusionary allegation, which refers to matters peculiarly within the knowledge of the Regulatory Staff and the Commission.

2. Applicant denies that the causes of fuel

^{2/} See also, the requirement of Fed. R. Civ. P. 36(a) that "Each matter of which an admission is requested shall be separately set forth."

densification are unknown, but admits that they remain under study.

3. Applicant is unable to admit or deny this allegation, which is hypothetical, vague, argumentative, and conclusionary.

4. Applicant is unable to admit or deny this allegation, which is vague, argumentative, and conclusionary.

5. Applicant is unable to admit or deny this allegation, which is hypothetical, vague, and conclusionary.

6. Applicant is unable to admit or deny this allegation, which is hypothetical, argumentative, and conclusionary.

WHEREFORE, Applicant requests that its objections be sustained and that CCPE's Request for Admissions be denied on the ground that they are wholly improper.

Respectfully submitted,

LeBOEUF, LAMB, LEIBY & MacRAE

By Howard M. Trotter
Partner

Attorneys for Applicant
1821 Jefferson Place, N.W.
Washington, D.C. 20036

April 4, 1973

CITY OF WASHINGTON)
DISTRICT OF COLUMBIA) ss:

LEONARD M. TROSTEN, being duly sworn, says:

I am one of the attorneys for Consolidated Edison Company of New York, Inc. ("Applicant") in this proceeding. I have been authorized by Applicant to make this verification on its behalf. The facts stated in the foregoing "Applicant's Response to Request for Admissions" are true and correct to the best of my knowledge, information, and belief.

Leonard M. Trosten

Leonard M. Trosten

Sworn to before me

on April 4, 1973.

Doris R. Day

Notary Public

My Commission Expires June 30, 1974